

(ii) prior to the date that is 1 year after October 7, 2010, in the case of a major system for which Milestone B or an equivalent acquisition decision—

(I) was completed prior to such date; or

(II) is completed on a date during the 180-day period following such date.

(B) The Director may submit to the congressional intelligence committees an initial vulnerability assessment required by clause (ii) of subparagraph (A) not later than 180 days after the date such assessment is required to be submitted under such clause if the Director notifies the congressional intelligence committees of the extension of the submission date under this subparagraph and provides a justification for such extension.

(C) The initial vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach to—

- (i) identify vulnerabilities;
- (ii) define exploitation potential;
- (iii) examine the system's potential effectiveness;
- (iv) determine overall vulnerability; and
- (v) make recommendations for risk reduction.

(2) If an initial vulnerability assessment for a major system is not submitted to the congressional intelligence committees as required by paragraph (1), funds appropriated for the acquisition of the major system may not be obligated for a major contract related to the major system. Such prohibition on the obligation of funds for the acquisition of the major system shall cease to apply on the date on which the congressional intelligence committees receive the initial vulnerability assessment.

(b) Subsequent vulnerability assessments

(1) The Director of National Intelligence shall, periodically throughout the procurement of a major system or if the Director determines that a change in circumstances warrants the issuance of a subsequent vulnerability assessment, conduct a subsequent vulnerability assessment of each major system and its significant items of supply within the National Intelligence Program.

(2) Upon the request of a congressional intelligence committee, the Director of National Intelligence may, if appropriate, recertify the previous vulnerability assessment or may conduct a subsequent vulnerability assessment of a particular major system and its significant items of supply within the National Intelligence Program.

(3) Any subsequent vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach and, if applicable, a testing-based approach, to monitor the exploitation potential of such system and reexamine the factors described in clauses (i) through (v) of subsection (a)(1)(C).

(c) Major system management

The Director of National Intelligence shall give due consideration to the vulnerability assessments prepared for a given major system when developing and determining the National Intelligence Program budget.

(d) Congressional oversight

(1) The Director of National Intelligence shall provide to the congressional intelligence committees a copy of each vulnerability assessment conducted under subsection (a) or (b) not later than 10 days after the date of the completion of such assessment.

(2) The Director of National Intelligence shall provide the congressional intelligence committees with a proposed schedule for subsequent periodic vulnerability assessments of a major system under subsection (b)(1) when providing such committees with the initial vulnerability assessment under subsection (a) of such system as required by paragraph (1).

(e) Definitions

In this section:

(1) The term “item of supply” has the meaning given that term in section 4(10)¹ of the Office of Federal Procurement Policy Act (41 U.S.C. 403(10)).

(2) The term “major contract” means each of the 6 largest prime, associate, or Government-furnished equipment contracts under a major system that is in excess of \$40,000,000 and that is not a firm, fixed price contract.

(3) The term “major system” has the meaning given that term in section 3097(e) of this title.

(4) The term “Milestone B” means a decision to enter into major system development and demonstration pursuant to guidance prescribed by the Director of National Intelligence.

(5) The term “vulnerability assessment” means the process of identifying and quantifying vulnerabilities in a major system and its significant items of supply.

(July 26, 1947, ch. 343, title V, §506C, as added Pub. L. 111-259, title III, §321(a)(1), Oct. 7, 2010, 124 Stat. 2667.)

Editorial Notes

REFERENCES IN TEXT

Section 4(10) of the Office of Federal Procurement Policy Act, referred to in subsec. (e)(1), which was classified to section 403(10) of former Title 41, Public Contracts, was repealed and reenacted as sections 108 and 115 of Title 41, Public Contracts, by Pub. L. 111-350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855.

CODIFICATION

Section was formerly classified to section 415a-5 of this title prior to editorial reclassification and renumbering as this section.

§ 3100. Intelligence community business system transformation

(a) Limitation on obligation of funds

(1) Subject to paragraph (3), no funds appropriated to any element of the intelligence community may be obligated for an intelligence community business system transformation that will have a total cost in excess of \$3,000,000 unless—

(A) the Director of the Office of Business Transformation of the Office of the Director of

¹ See References in Text note below.

National Intelligence makes a certification described in paragraph (2) with respect to such intelligence community business system transformation; and

(B) such certification is approved by the board established under subsection (f).

(2) The certification described in this paragraph for an intelligence community business system transformation is a certification made by the Director of the Office of Business Transformation of the Office of the Director of National Intelligence that the intelligence community business system transformation—

(A) complies with the enterprise architecture under subsection (b) and such other policies and standards that the Director of National Intelligence considers appropriate; or

(B) is necessary—

(i) to achieve a critical national security capability or address a critical requirement; or

(ii) to prevent a significant adverse effect on a project that is needed to achieve an essential capability, taking into consideration any alternative solutions for preventing such adverse effect.

(3) With respect to a fiscal year after fiscal year 2010, the amount referred to in paragraph (1) in the matter preceding subparagraph (A) shall be equal to the sum of—

(A) the amount in effect under such paragraph (1) for the preceding fiscal year (determined after application of this paragraph), plus

(B) such amount multiplied by the annual percentage increase in the consumer price index (all items; U.S. city average) as of September of the previous fiscal year.

(b) Enterprise architecture for intelligence community business systems

(1) The Director of National Intelligence shall, acting through the board established under subsection (f), develop and implement an enterprise architecture to cover all intelligence community business systems, and the functions and activities supported by such business systems. The enterprise architecture shall be sufficiently defined to effectively guide, constrain, and permit implementation of interoperable intelligence community business system solutions, consistent with applicable policies and procedures established by the Director of the Office of Management and Budget.

(2) The enterprise architecture under paragraph (1) shall include the following:

(A) An information infrastructure that will enable the intelligence community to—

(i) comply with all Federal accounting, financial management, and reporting requirements;

(ii) routinely produce timely, accurate, and reliable financial information for management purposes;

(iii) integrate budget, accounting, and program information and systems; and

(iv) provide for the measurement of performance, including the ability to produce timely, relevant, and reliable cost information.

(B) Policies, procedures, data standards, and system interface requirements that apply uniformly throughout the intelligence community.

(c) Responsibilities for intelligence community business system transformation

The Director of National Intelligence shall be responsible for the entire life cycle of an intelligence community business system transformation, including review, approval, and oversight of the planning, design, acquisition, deployment, operation, and maintenance of the business system transformation.

(d) Intelligence community business system investment review

(1) The Director of the Office of Business Transformation of the Office of the Director of National Intelligence shall establish and implement, not later than 60 days after October 7, 2010, an investment review process for the intelligence community business systems for which the Director of the Office of Business Transformation is responsible.

(2) The investment review process under paragraph (1) shall—

(A) meet the requirements of section 11312 of title 40; and

(B) specifically set forth the responsibilities of the Director of the Office of Business Transformation under such review process.

(3) The investment review process under paragraph (1) shall include the following elements:

(A) Review and approval by an investment review board (consisting of appropriate representatives of the intelligence community) of each intelligence community business system as an investment before the obligation of funds for such system.

(B) Periodic review, but not less often than annually, of every intelligence community business system investment.

(C) Thresholds for levels of review to ensure appropriate review of intelligence community business system investments depending on the scope, complexity, and cost of the system involved.

(D) Procedures for making certifications in accordance with the requirements of subsection (a)(2).

(e) Repealed. Pub. L. 112-277, title III, § 310(a)(3), Jan. 14, 2013, 126 Stat. 2475

(f) Intelligence community business system transformation governance board

(1) The Director of National Intelligence shall establish a board within the intelligence community business system transformation governance structure (in this subsection referred to as the “Board”).

(2) The Board shall—

(A) recommend to the Director policies and procedures necessary to effectively integrate all business activities and any transformation, reform, reorganization, or process improvement initiatives undertaken within the intelligence community;

(B) review and approve any major update of—

(i) the enterprise architecture developed under subsection (b); and

(ii) any plans for an intelligence community business systems modernization;

(C) manage cross-domain integration consistent with such enterprise architecture;

(D) coordinate initiatives for intelligence community business system transformation to maximize benefits and minimize costs for the intelligence community, and periodically report to the Director on the status of efforts to carry out an intelligence community business system transformation;

(E) ensure that funds are obligated for intelligence community business system transformation in a manner consistent with subsection (a); and

(F) carry out such other duties as the Director shall specify.

(g) Relation to annual registration requirements

Nothing in this section shall be construed to alter the requirements of section 8083 of the Department of Defense Appropriations Act, 2005 (Public Law 108-287; 118 Stat. 989), with regard to information technology systems (as defined in subsection (d) of such section).

(h) Relationship to defense business enterprise architecture

Nothing in this section shall be construed to exempt funds authorized to be appropriated to the Department of Defense from the requirements of section 2222 of title 10 to the extent that such requirements are otherwise applicable.

(i) Relation to Clinger-Cohen Act

(1) Executive agency responsibilities in chapter 113 of title 40 for any intelligence community business system transformation shall be exercised jointly by—

(A) the Director of National Intelligence and the Chief Information Officer of the Intelligence Community; and

(B) the head of the executive agency that contains the element of the intelligence community involved and the chief information officer of that executive agency.

(2) The Director of National Intelligence and the head of the executive agency referred to in paragraph (1)(B) shall enter into a Memorandum of Understanding to carry out the requirements of this section in a manner that best meets the needs of the intelligence community and the executive agency.

(j) Reports

Not later than March 31 of each of the years 2011 through 2014, the Director of National Intelligence shall submit to the congressional intelligence committees a report on the compliance of the intelligence community with the requirements of this section. Each such report shall—

(1) describe actions taken and proposed for meeting the requirements of subsection (a), including—

(A) specific milestones and actual performance against specified performance measures, and any revision of such milestones and performance measures; and

(B) specific actions on the intelligence community business system transformations

submitted for certification under such subsection;

(2) identify the number of intelligence community business system transformations that received a certification described in subsection (a)(2); and

(3) describe specific improvements in business operations and cost savings resulting from successful intelligence community business systems transformation efforts.

(k) Definitions

In this section:

(1) The term “enterprise architecture” has the meaning given that term in section 3601(4) of title 44.

(2) The terms “information system” and “information technology” have the meanings given those terms in section 11101 of title 40.

(3) The term “intelligence community business system” means an information system, including a national security system, that is operated by, for, or on behalf of an element of the intelligence community, including a financial system, mixed system, financial data feeder system, and the business infrastructure capabilities shared by the systems of the business enterprise architecture, including people, process, and technology, that build upon the core infrastructure used to support business activities, such as acquisition, financial management, logistics, strategic planning and budgeting, installations and environment, and human resource management.

(4) The term “intelligence community business system transformation” means—

(A) the acquisition or development of a new intelligence community business system; or

(B) any significant modification or enhancement of an existing intelligence community business system (other than necessary to maintain current services).

(5) The term “national security system” has the meaning given that term in section 3542¹ of title 44.

(6) The term “Office of Business Transformation of the Office of the Director of National Intelligence” includes any successor office that assumes the functions of the Office of Business Transformation of the Office of the Director of National Intelligence as carried out by the Office of Business Transformation on October 7, 2010.

(July 26, 1947, ch. 343, title V, §506D, as added Pub. L. 111-259, title III, §322(a)(1), Oct. 7, 2010, 124 Stat. 2669; amended Pub. L. 112-277, title III, §310(a)(3), Jan. 14, 2013, 126 Stat. 2475; Pub. L. 113-126, title III, §329(b)(3), July 7, 2014, 128 Stat. 1406.)

Editorial Notes

REFERENCES IN TEXT

Section 8083 of the Department of Defense Appropriations Act, 2005, referred to in subsec. (g), is section 8083 of Pub. L. 108-287, title VIII, Aug. 5, 2004, 118 Stat. 989, which is not classified to the Code.

¹ See References in Text note below.

Section 3542 of title 44, referred to in subsec. (k)(5), was repealed by Pub. L. 113-283, §2(a), Dec. 18, 2014, 128 Stat. 3073. Provisions defining “national security system” are now contained in section 3552 of title 44, as enacted by Pub. L. 113-283.

CODIFICATION

Section was formerly classified to section 415a-6 of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

2014—Subsec. (j). Pub. L. 113-126 substituted “2014” for “2015” in introductory provisions.

2013—Subsec. (e). Pub. L. 112-277 struck out subsec. (e) which required inclusion of certain budget information in the budget materials submitted to Congress for each fiscal year after fiscal year 2011.

Statutory Notes and Related Subsidiaries

IMPLEMENTATION

Pub. L. 111-259, title III, §322(b), Oct. 7, 2010, 124 Stat. 2673, provided that:

“(1) CERTAIN DUTIES.—Not later than 60 days after the date of the enactment of this Act [Oct. 7, 2010], the Director of National Intelligence shall designate a chair and other members to serve on the board established under subsection (f) of such section 506D of the National Security Act of 1947 [50 U.S.C. 3100(f)] (as added by subsection (a)).

“(2) ENTERPRISE ARCHITECTURE.—

“(A) SCHEDULE FOR DEVELOPMENT.—The Director shall develop the enterprise architecture required by subsection (b) of such section 506D [50 U.S.C. 3100(b)] (as so added), including the initial Business Enterprise Architecture for business transformation, not later than 60 days after the enactment of this Act.

“(B) REQUIREMENT FOR IMPLEMENTATION PLAN.—In developing such an enterprise architecture, the Director shall develop an implementation plan for such enterprise architecture that includes the following:

“(i) An acquisition strategy for new systems that are expected to be needed to complete such enterprise architecture, including specific time-phased milestones, performance metrics, and a statement of the financial and nonfinancial resource needs.

“(ii) An identification of the intelligence community business systems in operation or planned as of the date that is 60 days after the enactment of this Act that will not be a part of such enterprise architecture, together with the schedule for the phased termination of the utilization of any such systems.

“(iii) An identification of the intelligence community business systems in operation or planned as of such date, that will be a part of such enterprise architecture, together with a strategy for modifying such systems to ensure that such systems comply with such enterprise architecture.

“(C) SUBMISSION OF ACQUISITION STRATEGY.—Based on the results of an enterprise process management review and the availability of funds, the Director shall submit the acquisition strategy described in subparagraph (B)(i) to the congressional intelligence committees not later than March 31, 2011.”

[For definitions of terms used in section 322(b) of Pub. L. 111-259, set out above, see section 2 of Pub. L. 111-259, set out as a note under section 3003 of this title.]

§ 3101. Reports on the acquisition of major systems

(a) Definitions

In this section:

(1) The term “cost estimate”—

(A) means an assessment and quantification of all costs and risks associated with the acquisition of a major system based

upon reasonably available information at the time the Director establishes the 2010 adjusted total acquisition cost for such system pursuant to subsection (h) or restructures such system pursuant to section 3102(c) of this title; and

(B) does not mean an “independent cost estimate”.

(2) The term “critical cost growth threshold” means a percentage increase in the total acquisition cost for a major system of at least 25 percent over the total acquisition cost for the major system as shown in the current Baseline Estimate for the major system.

(3)(A) The term “current Baseline Estimate” means the projected total acquisition cost of a major system that is—

(i) approved by the Director, or a designee of the Director, at Milestone B or an equivalent acquisition decision for the development, procurement, and construction of such system;

(ii) approved by the Director at the time such system is restructured pursuant to section 3102(c) of this title; or

(iii) the 2010 adjusted total acquisition cost determined pursuant to subsection (h).

(B) A current Baseline Estimate may be in the form of an independent cost estimate.

(4) Except as otherwise specifically provided, the term “Director” means the Director of National Intelligence.

(5) The term “independent cost estimate” has the meaning given that term in section 3097(e) of this title.

(6) The term “major contract” means each of the 6 largest prime, associate, or Government-furnished equipment contracts under a major system that is in excess of \$40,000,000 and that is not a firm, fixed price contract.

(7) The term “major system” has the meaning given that term in section 3097(e) of this title.

(8) The term “Milestone B” means a decision to enter into major system development and demonstration pursuant to guidance prescribed by the Director.

(9) The term “program manager” means—

(A) the head of the element of the intelligence community that is responsible for the budget, cost, schedule, and performance of a major system; or

(B) in the case of a major system within the Office of the Director of National Intelligence, the deputy who is responsible for the budget, cost, schedule, and performance of the major system.

(10) The term “significant cost growth threshold” means the percentage increase in the total acquisition cost for a major system of at least 15 percent over the total acquisition cost for such system as shown in the current Baseline Estimate for such system.

(11) The term “total acquisition cost” means the amount equal to the total cost for development and procurement of, and system-specific construction for, a major system.

(b) Major system cost reports

(1) The program manager for a major system shall, on a quarterly basis, submit to the Direc-